

Department of Justice

§ 105.12

assessment. Therefore, after providing the required notification to the Attorney General as described in this subpart, the Provider may begin instruction of a candidate if the Attorney General has informed the Provider that the candidate does not present a risk to aviation or national security as a result of the risk assessment conducted pursuant to section 113 of ATSA. If the Attorney General does not provide either an authorization to proceed with training or a notice to deny training within 45 days after receiving the required notification, the Provider may commence training at that time. All candidates must show a valid passport establishing their identity to a Provider before commencing training.

(2) In the event the Attorney General subsequently determines that a candidate being trained does, in fact, present a risk to aviation or national security and that training should be denied, the Attorney General will instruct the Provider to terminate training.

(3) Providing false information or otherwise failing to comply with section 113 of ATSA may present a threat to aviation or national security and is subject to both civil and criminal sanctions. The United States will take all necessary legal action to deter and punish violations of this section.

§ 105.11 Individuals not requiring a security risk assessment.

(a) *Citizens and nationals of the United States.* A citizen or national of the United States is not subject to section 113 of ATSA. A Provider must determine whether a prospective trainee is a citizen or national of the United States prior to providing instruction on aircraft with a maximum certificated takeoff weight of 12,500 pounds or more. To establish United States citizenship or nationality, the prospective trainee must show the Provider from whom he or she seeks training any of the following documents as proof of United States citizenship or nationality:

(1) A valid, unexpired United States passport;

(2) An original or government-issued certified birth certificate with raised seal documenting birth in the United

States or one of its territories, together with a government-issued picture identification of the individual named in the birth certificate;

(3) An original United States naturalization certificate with raised seal, Form N-550 or Form N-570, together with a government-issued picture identification of the individual named in the certificate;

(4) An original certification of birth abroad with raised seal, Form FS-545 or Form DS-1350, together with a government-issued picture identification of the individual named in the certificate;

(5) An original certificate of United States citizenship with raised seal, Form N-560 or Form N-561, together with a government-issued picture identification of the individual named in the certificate; or

(6) In the case of training provided to a federal employee (including military personnel) pursuant to a contract between a federal agency and a Provider, the agency's written certification as to its employee's United States citizenship/nationality, together with the employee's government-issued credentials or other federally-issued picture identification.

(b) [Reserved]

§ 105.12 Notification for candidates eligible for expedited processing.

(a) *Expedited processing.* The Attorney General has determined that providing aviation training to certain categories of candidates is not likely to present a risk to aviation or national security because of the aviation training already possessed by these individuals or because of risk assessments conducted by other agencies. Therefore, the following categories of candidates are eligible for expedited processing:

(1) Foreign nationals who are current and qualified as pilot in command, second in command, or flight engineer with respective certificates with ratings recognized by the United States for aircraft with a maximum certificated takeoff weight of 12,500 pounds or more, or who are currently employed

and qualified by U.S. air carriers as pilots on aircraft with a maximum certificated takeoff weight of 12,500 pounds or more;

(2) Commercial, governmental, corporate, or military pilots of aircraft with a maximum certificated takeoff weight of 12,500 pounds or more who must receive familiarization training on a particular aircraft in order to transport it to the purchaser or recipient, provided that the training provided is limited to familiarization (familiarization training is limited to that required to become proficient in configurations and variations of an aircraft and does not include initial qualification or type rating for an aircraft); or

(3) Military or law enforcement personnel who must receive training on a particular aircraft given by the United States to a foreign government pursuant to a draw-down authorized by the President under section 506(a)(2) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2318(a)(2)), provided that the training provided be limited to familiarization.

(b) *Notification.* Before a Provider may conduct training for a candidate eligible for expedited processing under paragraph (a) of this section, the Provider must submit the following information to the Department:

- (1) The full name of the candidate;
- (2) An unique student identification number created by the Provider as a means of identifying records concerning the candidate;
- (3) Date of birth;
- (4) Country of citizenship;
- (5) Passport issuing authority;
- (6) Dates of training; and
- (7) The category of expedited processing under paragraph (a) of this section for which the candidate qualifies.

(c) *Commencement of training.* The notification must be provided electronically to the Department by the Provider in the specific format and by the specific means identified by the Department. Notification must be made by e-mail. Only e-mail sent from an e-mail address registered as a Provider will be accepted. Specific details about the mechanism for the notification will be made available by the Department or the FAA. After the complete notification

is furnished to the Department, the Provider may commence training the candidate as soon as the Provider receives a response from the Department that the individual does not present a risk to aviation or national security as a result of the risk assessment conducted pursuant to section 113 of ATSA and the candidate presents a valid passport establishing his or her identity to the Provider. Receipt of this response by the Department will be deemed approval by the Department to commence training. If the Department later determines that the candidate presents a risk to aviation or national security, it will immediately notify the Provider to cease training. A Provider so notified shall immediately cease providing any training to the person, regardless of whether or in what manner such training had been authorized. The Provider who submitted the candidate's identifying information will be responsible for ensuring that the training is promptly halted, regardless of whether another Provider is currently training the candidate.

(d) *Records.* When a Provider conducts training for a candidate eligible for expedited processing, the Provider must retain records to document how the Provider made the determination that the candidate was eligible. The Provider also must retain certain identifying records regarding the candidate, including date of birth, place of birth, passport issuing authority, and passport number. The Provider must be able to reference these records by the unique student identification number provided to the Department pursuant to this section. Providers also are encouraged to maintain photographs of all candidates trained by the Provider. Such records should be maintained for at least three years following the conclusion of training by the Provider. The Provider also should be able use the unique student identification number to cross-reference any other documentation that the FAA may require the Provider to retain regarding the candidate.